

## **REMARKS**

### **I. Introduction**

With the cancellation without prejudice of claim 12, claims 1 to 11 and 13 to 16 are currently pending in the present application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

### **II. Petition to Accord Filing Date Under 37 C.F.R. § 1.10(d)**

As an initial matter, a "Petition to Accord Filing Date Under 37 C.F.R. § 1.10(d)" was submitted on July 27, 2004, copy enclosed. A copy of the date-stamped postcard that indicates receipt of that Petition by the Office is also enclosed. To date, Applicants have not received a decision on that Petition. Applicants respectfully request a decision on that Petition to accord a filing date of December 21, 2001 to the present application.

### **III. Rejection of Claims 1 to 16 Under 35 U.S.C. § 103(a)**

Claims 1 to 16 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of U.S. Patent No. 6,779,196 ("Igbinadolor") and U.S. Patent No. 6,272,278 ("Takahata et al."). It is respectfully submitted that the combination of Igbinadolor and Takahata et al. does not render unpatentable the present claims for the following reasons.

As an initial matter, claim 12 has been canceled herein without prejudice, rendering moot the present rejection with respect to claim 12.

Claim 1 relates to a device for receiving data via radio signals in a motor vehicle, and recites an input device, which, when operated once in the event of a fault, puts the device in a state defined in a memory for playing back data. Claim 1 has been amended herein without prejudice to recite that the fault includes a failure of a service to respond, a failure in data reception, lack of device compatibility, a software fault, an operating system fault, or a memory fault. Support for this amendment may be found, for example, in claim 12, now canceled.

The Office Action refers to Fig. 4 of Takahata et al. as allegedly disclosing an input device that, when operated once, in the event of a fault, puts a device in a state defined in the memory for playing back data. However, Takahata et al. discuss a procedure in which a playback mode is switched *by a processor* from a fast-forward mode to a normal speed mode in the event that it determines that playback has caught up with receipt of data.

ordinary playback button in an operable state (step 116), it is not the playback button which causes a change in the mode. Rather, the processor sets the normal playback button and changes the mode.

Furthermore, as indicated above, Takahata et al. refer to changing the mode of a device from fast-forward to normal speed when playback catches up to recorded data, but does not disclose or suggest putting a device in a state defined in memory for playing back data in the event of a *fault*, and in particular, a fault that includes a failure of a service to respond, a failure in data reception, lack of device compatibility, a software fault, an operating system fault, or a memory fault.

Establishment of *prima facie* obviousness requires satisfaction of three separate criteria. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the proposed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). The reasonable expectation of success must be found in the prior art, and must not be based on applicant's disclosure. *In re Vaeck, supra*. Third, the prior art reference(s) must teach or suggest all of the claim limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

The Office Action has failed to establish a *prima facie* case of obviousness. In particular, the Office Action asserts that it would have been obvious to combine the use of Takahata et al.'s playback button during error with the system of Igbinadolor because "this will replay information which has been missed during malfunction." However, use of Takahata et al.'s playback buttons does not replay information missed during a malfunction. Rather, the buttons are, e.g., for alternatively setting a playback mode to normal or fast-forward. Accordingly, the Office Action does not provide a teaching or suggestion found in the references themselves for combining the references relied upon.

As for claims 2 to 11, and 13 to 16, which ultimately depend from claim 1 and therefore include all of the features recited in claim 1, it is respectfully submitted that the combination of Igbinadolor and Takahata et al. does not render unpatentable these dependent claims for the same reasons set forth above in support of the patentability of claim 1. *In re Fine, supra*. (any dependent claim that depends from a non-obvious independent claim is non-obvious).

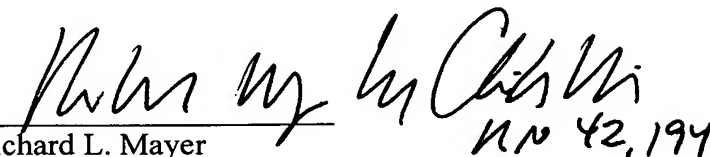
In view of the foregoing, withdrawal of this rejection is respectfully requested.

**IV. Conclusion**

In light of the foregoing, it is respectfully submitted that all of the presently pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

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